



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/644,179

08/20/2003

David T. Ross

457390

5706

27717 7590 07/27/2007
SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/644,179	Applicant(s) ROSS, DAVID T.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-16, 18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-16, 18, 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 5/7/2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since claim recites two attachment portions, the recitation in claim 16 of "the attachment portion of the mounting structure" is vague and indefinite for failing to clearly define which attachment portion or both attachment portions.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-14, 16, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,161,870 to Mason et al.

Mason et al discloses a drawer comprising all the elements recited in the above listed claims including, such as shown in Figs 1-2, a drawer body including a bottom wall 12 and a peripheral wall structure 14 extending upwardly from the bottom wall, the peripheral wall having first and second end portions, first and second mounting

Art Unit: 3637

structures, such as shown in Fig 2, on the respective end portions of the peripheral wall structure, each mounting structure including a base portion projecting forwardly from the peripheral wall structure and an attachment portion 34 projecting from the base portion, the respective attachment portions projecting laterally inwardly, a front panel 20 having an elongated panel wall having a front surface 38 and a rear surface 40, a projection 48 on the panel wall having a base portion extending rearwardly from the rear surface of the panel wall and an attachment portion integral with the base portion and extending therefrom substantially parallel to the rear surface of the panel wall for cooperation with the rear surface of the panel wall to define an open-ended channel therebetween, which channel extends the entire length of the wall; wherein the attachment portion of the mounting structure extends substantially parallel to a facing portion of the rear side of the wall, the channel extends the entire length of the wall, and the front panel is crimped to the mounting structure. Mason et al further discloses the wall including, such as shown in Fig 4, a first portion extending substantially parallel to a first plane and a second portion 54 extending substantially parallel to a second plane inclined with respect to the first plane, the projection 48 is a first projection, and further comprising a second projection on the wall and having a base portion extending rearwardly from the rear surface of the wall and an attachment portion integral with the base portion of the second projection and extending therefrom along the rear surface 40 of the wall for cooperation with the rear surface of the wall to define a second channel.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 21-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al.

Mason et al discloses all the structural elements recited in the above listed claims as discussed in paragraph #6. The differences being that Mason et al does not disclose the method of making the drawer as recited in claims 21 and 22. However, since Mason et al discloses all the structural limitations recited therein, it would have been obvious and well within the level of one skill in the art to perform the method steps recited in claims 21-22.

9. Claims 11-12, 14-15, 18, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 2,842,420 to Hansen et al in view of USP 3,526,934 to Owen, Sr. and USP 3,160,448 to Abernathy et al.

Hansen et al discloses a drawer comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a drawer body including a bottom wall and a peripheral wall structure 11-12 extending upwardly from the bottom wall, the peripheral wall having first and second end portions, first and second mounting structures on the respective end portions of the peripheral wall structure, each mounting structure including a base portion projecting forwardly from the peripheral wall structure and an attachment portion projecting from the base portion and extending above and below the base portion, the respective attachment portions projecting laterally inwardly, a front panel 10 having an elongated panel wall having a front surface and a rear surface, first and second projections on the panel wall each having a base portion extending rearwardly from the rear surface of the panel wall and an attachment portion integral with the base portion and extending therefrom along the rear surface of the panel wall for cooperation with the rear surface of the panel wall to define a channel therebetween in opposite directions, the attachment portion of the mounting structure being slidably receivable in the channel of the front panel 10, the peripheral wall structure including two side walls 11-12, the mounting structure including portions projecting from each side wall 11-12; wherein the drawer pull projects forwardly of the wall and extends the entire length thereof. The different being that Hansen et al does not disclose the attachment portion of the projection extending substantially parallel to the rear surface for cooperation with the rear surface of the wall to define an open-ended channel therebetween that extends the entire length of the wall, one of the first and second projections including portions cooperating with the rear surface of the wall

Art Unit: 3637

to define channels respectively opening in opposite direction, and the projection is substantially T-shaped in transverse cross-section.

However, Abernathy et al teaches the idea of providing an elongated wall of a drawer with a projection 11 on the wall and having a base portion extending rearwardly from the rear surface of the wall and an attachment portion integral with the base portion and extending substantially parallel to the rear surface of the wall for cooperation with the rear surface of the wall to define an open-ended channel therebetween that extends the entire length of the wall, thereby allowing easy adjustment of a panel connected to said wall. Owen, Sr. further teaches that it is well known in the art and well within the level of one skill in the art to provide interlocking means for connecting two members with either a dovetail configuration (such as shown in Fig 5) or a T-slot configuration (such as shown in Fig 9) in order to increase the versatility of the interlocking means. Therefore, it would have been obvious to modify the structure of Hansen by providing the rear surface of the wall with an open-ended channel that extends the entire length of the wall in order to allow easy adjustment of a panel connected to said wall, as taught by Abernathy, and modifying the dovetail configuration of Hansen et al by providing a T-slot configuration in order to increase the versatility of the interlocking means, as taught by Owen, Sr. , since the references teach alternate conventional interlocking means structure, used for the same intended purpose of connecting two members, thereby providing structure as claimed. Since the projection of Hansen et al, as modified by Abernathy and Owen, Sr., now shows a T-slot

Art Unit: 3637

configuration, the projection includes portions cooperating with the rear surface of the wall to define channels respectively opening in opposite direction.

Allowable Subject Matter

10. Claim 23 is allowed.

Response to Arguments

11. Applicant's arguments filed 5/17/2007 have been fully considered but they are not persuasive. In response to applicant's argument on page 8-9 that Mason fails to provide mounting structures which is "laterally slidably receivable" in a channel, the examiner takes the position that the claimed language fails to provide adequate structural limitations to the claim in order to distinguish from Mason. More specifically, the claimed language fails to clearly define which direction is considered to be lateral direction, and the term "receivable" is not positively recitation and can be construed as the mounting structure can be received in the channel. Applicant is suggested to more clearly define the terms "inwardly", "laterally", and amend "receivable" to "received".

12. In response to applicant's argument that Owen is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Owen is used for the teaching of interlocking means for connecting two members with either a dovetail configuration or a T-slot configuration.

Art Unit: 3637

13. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3637

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
July 19, 2007

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

